

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
JEFFREY DESKOVIC,

Plaintiff,

vs.

CITY OF PEEKSKILL, PUTNAM COUNTY,
WESTCHESTER COUNTY, DAVID LEVINE,
THOMAS MCINTYRE, WALTER BROVARSKI,
EUGENE TUMOLO, JOHN AND JANE DOE
SUPERVISORS, DANIEL STEPHENS, LOUIS
ROH, MILLARD HYLAND, PETER INSERO, and
LEGAL AID SOCIETY OF WESTCHESTER
COUNTY,

Defendants.

LINDA MCGARR,

Plaintiff,

vs.

CITY OF PEEKSKILL, PUTNAM COUNTY,
WESTCHESTER COUNTY, DAVID LEVINE,
THOMAS MCINTYRE, WALTER BROVARSKI,
EUGENE TUMOLO, JOHN AND JANE DOE
SUPERVISORS, DANIEL STEPHENS, LOUIS
ROH, MILLARD HYLAND, PETER INSERO, and
LEGAL AID SOCIETY OF WESTCHESTER
COUNTY,

Defendants.

CITY OF PEEKSKILL,
Third-Party Plaintiff,

vs.

WESTPORT INSURANCE CORPORATION as
successor-in-interest to NORTH RIVER
INSURANCE COMPANY, WESTPORT
INSURANCE CORPORATION as a successor-in-
interest to INTERNATIONAL INSURANCE
COMPANY, UNDERWRITERS AT LLOYD'S,
LONDON,

Caption continued on next page

Index No. 07-CV-8150 (KMK)(GAY)

Index No. 07-CV-9488 (KMK)(GAY)

**AFFIDAVIT OF STEVEN J. PUDELL
IN SUPPORT OF THIRD PARTY
PLAINTIFF CITY OF PEEKSKILL'S
OPPOSITON TO:**

- (a) **Westport Insurance Corporation's [and American Motorists Insurance Company's joinder to] "Motion to Dismiss Count III of the First Amended Third Party Complaints" in *Deskovic* and *McGarr* Actions;**
- (b) **Defendant Insurers Who Issued Policies to the City of Peekskill Effective from December 31, 1991 to December 31, 1999 "Motion to Dismiss Count III" of the First Amended Third Party Complaints in *Deskovic* and *McGarr* Actions;**
- (c) **Harco National Insurance Company's [a] Motion to Dismiss Count III – Breach of the Implied Covenant of Good Faith and Fair Dealing – as stated in the Amended Third Party Complaints Submitted by the City of Peekskill in *Deskovic* and *McGarr* Actions; and, [b] Motion Requesting that Certain Unauthorized Allegations be Struck.**

Caption continued from previous page

CX REINSURANCE COMPANY LIMITED as
successor-in-interest to CNA INTERNATIONAL
REINSURANCE COMPANY,
CX REINSURANCE COMPANY LIMITED as
successor-in-interest to CNA REINSURANCE OF
LONDON, LIMITED,

SPHERE DRAKE INSURANCE PLC,

ILLINOIS UNION INSURANCE COMPANY,

UNITED NATIONAL INSURANCE COMPANY,

TRAVELERS INDEMNITY COMPANY as
successor-in-interest to GULF INSURANCE
COMPANY,

AMERICAN MOTORISTS INSURANCE
COMPANY as successor-in-interest to
AMERICAN PROTECTION INSURANCE
COMPANY,

AMERICAN MOTORISTS INSURANCE
COMPANY as successor-in-interest to
SPECIALTY NATIONAL INSURANCE
COMPANY,

HARCO NATIONAL INSURANCE COMPANY,
and

AMERICAN ZURICH INSURANCE COMPANY.

Third-Party Defendants.

AFFIDAVIT OF STEVEN J. PUDELL, ESQ.

Steven J. Pudell, an attorney duly admitted to practice before this Court, being duly
sworn, deposes and says:

1. "I am a shareholder of the law firm of Anderson Kill & Olick, P.C.,
counsel for Third-Party Plaintiff City of Peekskill (the "City of Peekskill"). I submit this

affidavit in support of the City of PeekSkill's Memorandum of Law in Opposition to (a) Westport Insurance Corporation's [and American Motorists Insurance Company's joinder to] "Motion to Dismiss Count III of the First Amended Third Party Complaints" in *Deskovic* and *McGarr*; (b) Defendant Insurers Who Issued Policies to the City of Peekskill Effective from December 31, 1991 to December 31, 1999 "Motion to Dismiss Count III" of the First Amended Third Party Complaints in *Deskovic* and *McGarr*; and (c) Harco National Insurance Company's [a] "Motion to Dismiss Count III – Breach of the Implied Covenant of Good Faith and Fair Dealing – as stated in the Amended Third Party Complaints Submitted by the City of Peekskill" in *Deskovic* and *McGarr* and [b] Motion "Requesting that Certain Unauthorized Allegations be Struck."

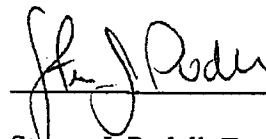
2. Attached hereto as Exhibit A is a true and correct list of the Third-Party Defendants' insurance policies sold to the City of Peekskill.

3. Attached hereto Exhibit B is a true and correct copy of the First Amended Third Party Complaint in the pending *Deskovic* Action, Index No. CV-07-8150 (KMK)(GAY), without Exhibits.

4. Attached hereto as Exhibit C is a true and correct copy of the First Amended Third Party Complaint in the pending *McGarr* Action, Index No. CV-07-9488 (KMK)(GAY), without Exhibits.

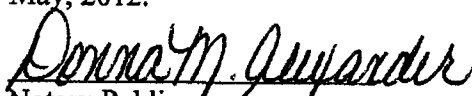
5. Attached hereto as Exhibit D is a true and correct copy of a March 20, 2012 letter from Molly A. Horrigan of American Zurich Insurance Company to Steven J. Pudell."

FURTHER AFFIANT SAYETH NOT.



Steven J. Pudell, Esq.

Subscribed and Sworn
Before me this 4th day of
May, 2012.

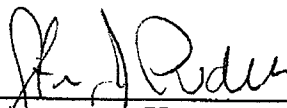


Notary Public
Donna M. Alexander
NOTARY PUBLIC, State of New Jersey
No. 2299506
Qualified in Essex County
Commission Expires May 8, 2013

Steven J. Pudell, Esq.
spudell@andersonkill.com
Anderson Kill & Olick, P.C.
One Gateway Center, Suite 1510
Newark, NJ 07102
(973) 642-5858
(973) 621-6361 fax

Dated: May 4, 2012

By:



ANDERSON KILL & OLICK, P.C.
William G. Passannante
Steven J. Pudell
Vianny M. Pichardo
1251 Avenue of the Americas
New York, New York 10020
Telephone: (212) 278-1000
ATTORNEYS FOR THIRD-PARTY
PLAINTIFF CITY OF PEEKSKILL